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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-134

A C C U S A T I O N

13 LISA MARY NELSON
438 Foothill
Shell Beach, CA 93449

14 Registered Nursing License No. 464058
15 Public Health Nurse Certification No. 56119

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N., Executive Officer (Complainant) brings
21 this Accusation solely in her official capacity as the Executive Officer of the Board of Registered
22 Nursing (Board), Department of Consumer Affairs.

23 2. On or about March 31, 1991, the Board issued Registered Nursing License
24 No. 464058 to LISA MARY NELSON (Respondent). The Registered Nursing License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on August
26 31, 2010 unless renewed.

27 3. On or about August 27, 1996, the Board issued Public Health Nurse
28 Advanced Certification No. 56119 to Respondent. The Certification was in full force and effect

1 at all times relevant to the charges brought herein and will expire on August 31, 2010 unless
2 renewed.

3 JURISDICTION

4 4 This Accusation is brought before the Board, under the authority of the
5 following laws. All section references are to the Business and Professions Code unless otherwise
6 indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in
9 pertinent part, that the Board may discipline any licensee, including a licensee holding a
10 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
11 2750) of the Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of
13 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
14 against the licensee or to render a decision imposing discipline on the license. Under section
15 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
16 the expiration.

17 7. Section 2761 of the Code states:
18 “The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

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22 “(f) Conviction of a felony or of any offense substantially related to the
23 qualifications, functions, and duties of a registered nurse, in which event the record of the
24 conviction shall be conclusive evidence thereof.”

25 8. Section 2762 of the Code states:

26 “In addition to other acts constituting unprofessional conduct within the meaning
27 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
28 under this chapter to do any of the following:

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“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.”

9. Section 490 of the Code states:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

10. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

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11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crimes)

12. Respondent is subject to disciplinary action under sections 2761, subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent has been convicted in two instances of crimes substantially related to the qualifications, functions or duties of a registered nurse as follows:

DRIVING UNDER THE INFLUENCE (ALCOHOL) - 2007

a. On or about September 12, 2007, Respondent was convicted on a plea of nolo contendere for violating one count of Vehicle Code section 23152(b) driving under the influence of alcohol with a blood-alcohol level .08 or higher, a misdemeanor, in the Superior Court of California, County of San Luis Obispo, Case No.M405534 entitled *People v. Lisa Mary Nelson*.

b. The circumstances surrounding the conviction, are that on or about July 2, 2007, Respondent was arrested for driving under the influence of alcohol. On that date at approximately 2030 hours, Respondent left a restaurant in Pismo Beach, CA in an intoxicated state, drove her vehicle a short distance, then collided with a raised curb in the restaurant parking lot, in a manner that disabled her vehicle. City of Pismo Beach police officers arriving at the scene, noted that Respondent's breath smelled strongly of alcohol, that Respondent could not stand without support, and observed other symptoms of intoxication. Respondent cursed at police officers when they attempted to question her, refused to cooperate with field sobriety testing, and was otherwise combative with officers during the detention. Once under arrest and placed in the rear of the police vehicle, Respondent kicked out the rear passenger side window of the vehicle and was placed in leg restraints.

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1 c. Respondent was on criminal court probation from an earlier conviction of
2 the same violation at the time of the incident underlying the conviction (Probation from the 2005
3 conviction described below was to have concluded on April 22, 2008).

4 **DRIVING UNDER THE INFLUENCE (ALCOHOL) - 2005**

5 d. On or about April 22, 2005, Respondent was convicted on a plea of nolo
6 contendere for violating one count of Vehicle Code section 23152(b) driving under the influence
7 of alcohol with a blood-alcohol level .08 or higher, a misdemeanor, in the Superior Court of
8 California, County of San Luis Obispo, Case No.M365710 entitled *People v. Lisa Mary Nelson*.

9 e. The circumstances surrounding the conviction, are that on or about
10 November 11, 2004, a California Highway Patrol officer who had stopped Respondent for
11 speeding, observed signs of alcohol induced impairment, conducted field sobriety testing, then
12 arrested her for driving under the influence of alcohol.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Conviction Involving Use of an Alcoholic Beverage)**

15 13. Respondent is subject to disciplinary action under sections 2761,
16 subdivision (a) on the grounds of unprofessional conduct, as defined in Code section 2762,
17 subdivision (c), in that on or about September 12, 2007 and April 22, 2005, Respondent was
18 convicted of a crimes involving use of an alcoholic beverage, as more fully set forth above in
19 paragraph 12.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Under the Influence)**

22 14. Respondent is subject to disciplinary action pursuant to section 2761(a) for
23 unprofessional conduct in violation of section 2762(b) in that on or about July 2, 2007 and
24 November 11, 2004, Respondent used alcoholic beverages to an extent or in a manner dangerous
25 or injurious to herself, and the public, when she operated a vehicle while under the influence of
26 an alcoholic beverage or drug, or under their combined influence of any alcoholic beverage and
27 drug, as more fully set forth in paragraph 12, above.

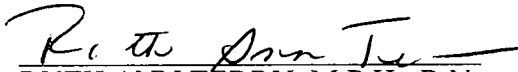
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nursing License No. 464058 issued to Lisa Mary Nelson;
2. Revoking or suspending Public Health Nurse Certification No. 56119 issued to Lisa Mary Nelson;
3. Ordering Lisa Mary Nelson to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/17/08


RUTH ANN TERRY, M.P.H., R.N.,
Executive Officer
Board of Registered Nursing
State of California
Complainant

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